

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner and her husband both receive Social Security benefits that total \$1,487 per month. Her husband also has earnings from employment that, as of December 1, 2002 were \$894 per month. After all applicable deductions the Department determined their net income to be \$1,881 per month.

3. The petitioner reapplied for Medicaid and VHAP effective December 1, 2002 but was denied on November 11, 2002 because she was over income. She was, however, found eligible for healthy Vermonters, the Department's reduced-price prescription drug program.

4. It appears that the petitioner had received Medicaid for the six months prior to December 1, 2002 based on an application she made prior to the time she was found eligible for Social Security.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations governing the Medicaid and VHAP programs require that an applicant meet certain income eligibility guidelines in order to be eligible. W.A.M. §§ M350. The Department determined the petitioner's income for Medicaid in the manner most favorable to the petitioner under the regulations. It excluded the petitioner's husband and granddaughter as household members. It attributed none of the granddaughter's income to the petitioner and counted only half the petitioner's and her husband's combined income as available to the petitioner. See W.A.M. § M330. However, the

petitioner's countable share of the household income, \$940 per month, made her over income for Medicaid, which has a maximum of \$379 a month for one half of a two-person household.

The Department further determined that the petitioner can become eligible for Medicaid in the six-month period beginning December 1, 2002 once she incurs medical expenses over \$3,371. This figure was arrived at by subtracting the income maximum (or "protected income level") applicable to the petitioner (\$379 a month) from the petitioner's monthly income (\$940) and multiplying by six (the number of months in the eligibility period). The petitioner does not dispute any of these calculations.

For VHAP, the Department was required to treat the petitioner and her husband as a household of two persons and count their combined incomes, \$1,881. W.A.M. § 4001.8. The Department determined that this made the petitioner ineligible for VHAP, which has a two-person income maximum of \$1,515 a month, and VScript, which has a \$1,768 maximum.¹ The petitioner did, however, fall within the income eligibility

¹ Unlike Medicaid, there is no provision under VHAP to deduct medical expenses as a spenddown (or deductible) in order to become eligible. The Board has often commented on the apparent unfairness of the lack of such a feature.

guidelines (\$4,040 per month maximum) for the Healthy
Vermonters program. Procedures Manual § P-2420B.

At the hearing in this matter, held on December 30, 2002,
the petitioner stated that her husband's hours of employment
would probably be reduced after the holiday season. The
petitioner was advised to promptly reapply for benefits if
this occurs. (Inasmuch as the petitioner and her husband are
not far over the income tests for VHAP and VScript, they could
also consider voluntarily reducing his earned income to the
extent this will make them eligible for either of both of
those programs. The petitioner would be well advised to
consult with legal aid or the area office on aging before she
and her husband take such a step.)

Inasmuch as the Department's decisions in this matter
were in accord with the pertinent regulations they must be
affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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